PENDER & COWARD
ATTORNEYS AND COUNSELLORS AT LAW

PRACTICE AREA

NEGOTIATION AND SETTLEMENT

Most eminent domain matters are resolved without ever going to litigation because the condemning authority and the landowner are able to negotiate a voluntary acquisition.

Understanding the Eminent Domain Process

At the negotiation stage, the condemning authority negotiates with the property owner to reach an agreement on the compensation for the property. Once the condemning authority makes their bona fide offer, most of the time the landowner and the condemning authority are able to work out price and terms they can both agree on, although the length and type of the negotiations can vary. These sorts of transactions often close very similarly to a normal real estate transaction although the specific process can vary by condemning authority and jurisdiction. The firm has extensive expertise representing governmental clients in all areas of real estate practice, including but not limited to drafting deeds, easements, and other real estate documents related to land acquisition.

Negotiating Settlement Agreements with Property Owners and Tenants

Many property owners and tenants are represented by counsel, but many are not. In either event we have the necessary experience in negotiating settlement agreement in eminent domain matters. While sometimes litigation is the only option, with open lines of communication and a personal touch, it can be possible to avoid litigation by coming to a joint understanding of the needs of the parties involved. While litigation boils this problem down to dollars and cents, working out negotiated settlement agreements often offers opportunities for creative and/or non-monetary solutions such as plan or design changes or other items which might not be available to the landowner through a litigation remedy. Our attorneys are used to thinking outside of the box and trying to find solutions where each side can feel that they have a win/win result or at least a result everyone can live with.

Mediation and Alternative Dispute Resolution in Eminent Domain Cases

Eminent domain cases are often only about dollars and cents. There often is no question of liability, merely a need to determine the amount of compensation owed. These sorts of cases lend themselves well to alternative dispute resolution, often through mediation. Effective representation of clients at mediation is its own skill set, and our attorneys are very experienced in working in this environment, helping you select qualified third party neutrals, and guiding you through the process to reach a settlement in these matters which can often result in significant cost savings versus litigation.

Litigation Avoidance Strategies in Eminent Domain Cases

Eminent domain and right of way projects are often a matter of statistics. How much of any given project can be closed without litigation? With experienced personnel and counsel, proper planning, and a bit of luck, it is possible to clear entire projects without ever having to go to litigation. Sometimes it is simply unavoidable where there is heir property on the project, or a cemetery or graveyard to be relocated, or a court approval needed for unincorporated church property or the like, and our attorneys have significant experience in almost all possible complications that can arise in eminent domain cases. However, there are strategies that can be put in place to try to increase the percentage of settlement on any particular project. The earlier experienced counsel are involved in the project, the sooner these sorts of strategies can be explored and employed.

For many years the attorneys in this practice group have committed themselves to mastering the full spectrum of the right-of-way process. Negotiating and working out satisfactory settlements is a part of that spectrum, as we understand that winning in eminent domain and right of way projects is about clearing the right of way and getting the project online. We pride ourselves on our ability to work congenially and professionally with all stakeholders on a project including the landowner, while still zealously representing the interests of our client. If you have any questions about negotiations, settlements, or alternative dispute resolution in your eminent domain or right of way projects feel free to reach out to our attorneys and see if we can assist you.